

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 10-20403

Honorable Nancy G. Edmunds

v.

D-2 BOBBY W. FERGUSON,

Defendant.

---

**Second Amendment to the Amended Preliminary Order of forfeiture to  
Include Certain Substitute Property of Defendant Bobby Ferguson**

On October 21, 2013, the Court entered an Amended Preliminary Order of Forfeiture against Defendant Bobby W. Ferguson forfeiting specific property and imposing a forfeiture money judgment in favor of the United States in the amount of \$6,284,000, which represents the amount of proceeds obtained by Defendant Ferguson as a result of his violation of Count One (18 U.S.C. § 1962(d) - RICO conspiracy) of the Fourth Superseding Indictment. (ECFS 490, 519).

The United States applied, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure and 18 U.S.C. § 1963(m), to amend the Amended Preliminary Order of Forfeiture (ECF 490) to include the forfeiture of substitute property:

- **Harley Davidson Motorcycle, VIN: 1HD1FRW161Y654039, titled to Bobby W. Ferguson.**

After considering the government's application, the affidavit in support of the application, the Amended Preliminary Order of Forfeiture (ECF 490) and the Amendment to the Amended Preliminary Order of Forfeiture (ECF 565), the Court grants the government's application and finds:

- A significant balance of the forfeiture money judgment remains unpaid.
- With the exception of the property previously forfeited, proceeds of Defendant Ferguson's RICO Conspiracy violation are not available for forfeiture for one or more of the reasons set forth in 18 U.S.C. § 1963(m). Specifically, as a result of the acts and omission of Defendant Ferguson, as described in the government's application, property that is subject to forfeiture cannot be located by the government upon the exercise of due diligence, has been transferred to a third party, and has been commingled with other property that cannot be divided.
- Pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure and 18 U.S.C. § 1963(m), the United States is entitled to an order forfeiting other property of Defendant Ferguson as a substitute for the unavailable funds ordered forfeited.

Accordingly, it is **HEREBY ORDERED AND ADJUDGED** that

1. The Amended Preliminary Order of Forfeiture is hereby amended to include the forfeiture to the United States of the **Harley Davidson Motorcycle, VIN: 1HD1FRW161Y654039, titled to Bobby W. Ferguson** (Harley Davidson) as a substitute asset.
2. All right, title and interest of Defendant Ferguson in the Harley Davidson is **HEREBY FORFEITED** to the United States for disposition in accordance with law, and any right, title or interest that any of Defendant Ferguson's heirs, successors or assigns, have or may have in the Harley Davidson **IS HEREBY AND FOREVER EXTINGUISHED**.
3. The United States Marshal shall take any steps deemed warranted to preserve the Harley Davidson's availability for forfeiture pending the conclusion of any third party proceedings which may be conducted in this matter pursuant to 18 U.S.C. § 1963(l) and Rule 32.2 of the Federal Rules of Criminal Procedure.
4. The United States shall initiate proceedings necessary to protect any third party interests in the Harley Davidson, pursuant to and in accordance with 18 U.S.C. § 1963(l) and Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure. The United States shall publish

on [www.forfeiture.gov](http://www.forfeiture.gov), notice of this Order and of its intent to dispose of the Harley Davidson in such manner as the Attorney General may direct. The United States may also, to the extent practicable, provide direct written notice to any person or entity known to have an alleged interest in the Harley Davidson. Said notice shall direct that any person other than the defendant asserting a legal interest in the property may file a petition with the Court within thirty (30) days of the final publication of notice or of receipt of actual notice, whichever is earlier.

5. Any petition filed by a third party asserting an interest in the Harley Davidson shall be signed by the petitioner under penalty of perjury and must set forth the nature and extent of the petitioner's alleged right, title, or interest in the Harley Davidson, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the Harley Davidson, and additional facts supporting the petitioner's claim and the relief sought. The petition shall be for a hearing before the Court alone, without a jury and in accordance with 18 U.S.C. § 1963(l), to adjudicate the validity of the petitioner's alleged interest in the Harley Davidson.

6. Upon the Court's disposition of all third party interests filed under 18 U.S.C. § 1963(l), or if no third party petitions are filed within 30 days of the final publication or receipt of actual notice, whichever is earlier, then, pursuant to 18 U.S.C. § 1963(l)(7) and Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, this Order shall be deemed a final order of forfeiture with regard to the Harley Davidson, the United States shall have clear title to the Harley Davidson and may warrant good title to any subsequent purchaser or transferee, and the United States Marshals Service, or any duly authorized law enforcement official, shall dispose of the Harley Davidson according to law.
7. The Court shall retain jurisdiction to enforce this Order and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

**IT IS HEREBY ORDERED.**

Dated: September 18, 2019

s/ Nancy G. Edmunds  
NANCY G. EDMUNDS  
United States District Judge